

E-Filed On 6/29/06

1 NOEJ
 2 SUSAN WILLIAMS SCANN, ESQ.
 2 Nevada Bar No. 000776
 3 PAUL R. CONNAGHAN, ESQ.
 3 Nevada Bar No. 003229
 4 DEANER, DEANER, SCANN, MALAN & LARSEN
 4 720 South Fourth Street, Suite #300
 Las Vegas, Nevada 89101
 5 (702) 382-6911
 5 (702) 366-0854, Fax
 6 Attorney for Party In Interest
 Franklin/Stratford Investment LLC
 7

8 UNITED STATES BANKRUPTCY COURT
 9 FOR THE DISTRICT OF NEVADA

10	In re:	)	Case No. BK-S-06-10725 LBR
11	USA COMMERCIAL MORTGAGE	)	Case No. BK-S-06-10726 LBR
12	COMPANY,	)	Case No. BK-S-06-10727 LBR
13	<u>Debtor</u>	)	Case No. BK-S-06-10728 LBR
14	In re:	)	Case No. BK-S-06-10729 LBR
15	USA CAPITAL REALTY ADVISORS, LLC.	)	Chapter 11
16	<u>Debtor</u>	)	Jointly Administered Under
17	In re:	)	Case No. BK-S-06-10725 LBR
18	USA CAPITAL DIVERSIFIED TRUST	)	Date of Hearing: June 21, 2006
19	DEED FUND, LLC.	)	Time of Hearing: 8:30a.m.
20	<u>Debtor</u>	)	Affects:
21	In re:)	<input checked="" type="checkbox"/> USA Commercial Mortgage Company
22	USA CAPITAL FIRST TRUST)	<input checked="" type="checkbox"/> USA Capital Diversified Trust Deed Fund, LLC
23	DEED FUND, LLC.)	<input checked="" type="checkbox"/> USA Capital First Trust Deed Fund, LLC
24	<u>Debtor</u>)	<input type="checkbox"/> USA Securities, LLC
	In re:)	<input type="checkbox"/> USA Realty Advisors, LLC
	USA SECURITIES, LLC.)	<input type="checkbox"/> All Debtors
	<u>Debtor</u>)	

25
 26 **NOTICE OF ENTRY OF ORDER AUTHORIZING RELEASE OF EXCESS**
 26 **COLLATERAL FOR FRANKLIN/STRATFORD LOAN AND PAYMENT**
 27 **OF THE SALE PROCEEDS OF 2.51 ACRES PARCEL TO PETRA, INC.**

28 PLEASE TAKE NOTICE that an ORDER AUTHORIZING RELEASE OF EXCESS

1 COLLATERAL FOR FRANKLIN/STRATFORD LOAN AND PAYMENT OF THE SALE
2 PROCEEDS OF 2.51 ACRES PARCEL TO PETRA, INC. was entered in the above-entitled matter
3 on June 26, 2006, a copy of which is attached hereto.

4 DATED this 28th day of June, 2006.

5 Respectfully Submitted,

6 DEANER, DEANER, SCANN,
7 MALAN & LARSEN

8 By:

SUSAN WILLIAMS SCANN, ESQ.
Nevada Bar No. 000776
720 South Fourth Street, Suite 300
Las Vegas, Nevada 89101
Attorney for Party In Interest
Franklin/Stratford Investment LLC



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Entered on Docket
June 26, 2006

Hon. Linda B. Riegle
United States Bankruptcy Judge

6 **ORDER**

7 **SUSAN WILLIAMS SCANN, ESQ.**

8 Nevada Bar No. 000776

9 **PAUL R. CONNAGHAN, ESQ.**

10 Nevada Bar No. 003229

11 **DEANER, DEANER, SCANN, MALAN & LARSEN**

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14 Attorney for Party In Interest

15 Franklin/Stratford Investment LLC

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17 DEANER, DEANER, SCANN, MALAN & LARSEN

18 720 South Fourth Street, Suite 300

19 Las Vegas, Nevada 89101

20 In re:

21 USA COMMERCIAL MORTGAGE
COMPANY,

22 Debtor

23 Case No. BK-S-06-10725 LBR
Case No. BK-S-06-10726 LBR
Case No. BK-S-06-10727 LBR
Case No. BK-S-06-10728 LBR
Case No. BK-S-06-10729 LBR

24 Chapter 11

25 In re:
USA CAPITAL REALTY ADVISORS, LLC.

26 Debtor

27 Jointly Administered Under
Case No. BK-S-06-10725 LBR

28 Date of Hearing: June 21, 2006
Time of Hearing: 8:30a.m.

29 Affects:

30 USA Commercial Mortgage Company
 USA Capital Diversified Trust Deed Fund, LLC
 USA Capital First Trust Deed Fund, LLC
 USA Securities, LLC
 USA Realty Advisors, LLC
 All Debtors

31 **ORDER AUTHORIZING RELEASE OF EXCESS COLLATERAL FOR
FRANKLIN/STRATFORD LOAN AND PAYMENT OF THE SALE PROCEEDS OF 2.51
ACRES PARCEL TO PETRA, INC.**

1 The Debtors filed a Motion for Authority to Forbear and to Provide Further Funding for
2 Certain Outstanding Loans (Affects Debtor USA Commercial Mortgage, Debtor Capital Diversified
3 Trust Deed Fund LLC and Debtor USA Capital Diversified Trust Deed Fund LLC) ("the Motion")
4 which came on for hearing on June 21, 2006. This Order relates only to the portion of the Motion
5 relating to the Franklin/Stratford Loan. The Court, having reviewed the portion of the Motion
6 relating to the Franklin/Stratford Loan, the relief sought therein, the Declarations of Robert A.
7 Russell and Gary Buentgen in support of the Franklin/Stratford Investments LLC's
8 ("Franklin/Stratford") portion of the Motion and the Court finding that the Committees representing
9 the Beneficiaries of the Deeds of Trust securing the Franklin/Stratford Loan, namely the Official
10 Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC, 80%
11 beneficiary, consented to the release of funds and payment to Petra, Inc., and the Official Committee
12 of the Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC, 20% beneficiary,
13 filed no objection to the Motion and a proper notice having been given and that the portion of the
14 Motion relating to the Franklin/Stratford Loan is in the best interest of the Debtors and their
15 respective estates, and it appearing that no further hearing or notice is required and after due
16 deliberation and sufficient cause appearing therefor,

17 1. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the portion of the
18 Debtors' Motion For Authority to Forbear and To Provide Further Funding for Certain Outstanding
19 Loans relating to the Franklin/Stratford sale of the 2.51 acres of real property described on Exhibit
20 "A" attached hereto and incorporated by reference herein ("The Property") is approved and granted;
21 and

22 2. IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that
23 Franklin/Stratford is authorized and ordered, after payment of commissions and closings costs to first
24 apply and pay all net sale proceeds of approximately \$745,000.00 to Petra Inc., up to and including
25 the full amount of Petra Inc.'s claims and if any excess sale proceeds remain, the excess shall be
26 paid to Debtor USA Commercial Mortgage Company as servicer, for the benefit of the
27 Franklin/Stratford investors consisting of the USA Capital First Trust Deed Fund, LLC and the USA

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1 Capital Diversified Trust Fund, LLC; and

2 3. IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Debtor
3 USA Commercial Mortgage Company as Servicer is authorized and ordered to immediately sign and
4 deliver to Franklin/Stratford for closing a request for partial reconveyance releasing the lien of the
5 USA Capital First Trust Deed Fund, LLC and the USA Capital Diversified Trust Fund, LLC arising
6 out of the deed of trust recorded in the Office of the County Recorder of Boise, Idaho on March 31,
7 2005, as Instrument Number 105038725 and all modifications thereof as to the Property, such
8 partial reconveyance to be used upon payment by the buyer of the sale price of good funds to the
9 order of Franklin/Stratford with such lien to attach to the sale proceeds with the same validity,
10 priority and enforceability as they had when attached to the Franklin/Stratford real property. USA
11 Capital First Trust Deed Fund, LLC and the USA Capital Diversified Trust Fund, LLC have
12 consented to the use of the sale proceeds as provided for in Paragraph 2 above; and

13 4. IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that the
14 automatic ten (10) day stay under Bankruptcy Rule 6004(g) has been waived and does not
15 apply to this Order, and this Order is effective immediately upon entry.

16 5. IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that
17 all signatures are waived except Lenard E. Schwartzer or Jeanette E. McPherson.

18 PREPARED BY:

19 DEANER, DEANER, SCANN,
MALAN & LARSEN

20 
21 By

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25 Attorneys for Franklin/Stratford Investments, LLC

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1 APPROVED BY:
2 SCHWARTZER & McPHERSON LAW FIRM
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4 Lenard E. Schwartz
5 Lenard E. Schwartz, ESQ.
6 Nevada Bar No. 5423
7 Jeanette R. McPherson, ESQ.
8 Nevada Bar No. 0005423
9 2850 South Jones Boulevard, Suite 1
10 Las Vegas, Nevada 89146
11 Attorneys for Debtors

12 APPROVED BY:
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14 SHEA & CARLYON, LTD.

15 Shlomo S. Sherman
16 Shlomo S. Sherman
17 Nevada Bar No. 9688
18 EVB H. KARASIK, ESQ.
19 (California State Bar No. 155356), Members of
20 1901 Avenue of the Stars, 12th Floor
21 Los Angeles, California 90067
22 (Proposed) Counsel for the Investor Committees

23 ####

24 F:\OFFICE\CLIENTS\FranklinStratford v. USA Commercial Mortgage\DOC\Order granting Emergency Motion.wpd

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EXHIBIT A

TITLEONE CORPORATION

Authorized agent for:

COMMONWEALTH LAND TITLE INSURANCE COMPANY

Commitment Number: A0657052 JG/DE

**SCHEDULE C
PROPERTY DESCRIPTION**

The land referred to in this Commitment is described as follows:

PARCEL E

A parcel of land being a portion of Lot 21 and Lot 22 of Honor Park Subdivision No.3 as on file in Book 78 of Plats at Page 8191 in the Office of the Ada County Recorder, Boise, Idaho, lying in the Northwest quarter of Section 18, Township 3 North, Range 1 East, Boise Meridian, City of Meridian, Ada County, Idaho as shown on Record of Survey No. 7377 recorded as Instrument No, 106072793 in the office of the Ada County Recorder, Boise, Idaho and more particularly described as follows:

COMMENCING at an iron pin marking the Northwest corner of Lot 26, Block 2 of said Honor Park Subdivision No. 3; Thence along the West boundary line of said Lot 26,
South 00°39'36" East 218.68 feet to an iron pin marking the Southwest corner of said Lot 26; Thence along the South boundary line of said Lot 26,
North 89°31'22" East 227.00 feet to an iron pin marking the Northwest corner of Lot 21, Block 2 of said Honor Park Subdivision No. 3 and the POINT OF BEGINNING, thence along the North boundary line of said Lot 21,
North 89°31'22" East 246.12 feet to an iron pin; Thence
South 00°24'38" West 213.15 feet to an iron pin marking a point on a curve to the left; Thence along said curve to the left having a radius of 52.00 feet, a central angle of 16°37'45", a length of 15.09 feet and a long chord that bears
South 77°05'05" West 15.04 feet to an iron pin marking a point on the curve to the left; Thence continuing along the curve to the left having a radius of 52.00 feet, a central angle of 28°39'12", a length of 26.00 feet and a long chord that bears
South 54°26'37" West 25.73 feet to an iron pin; Thence
North 46°02'44" West 24.99 feet to an iron pin, Thence
North 89°50'44" West 193.47 feet to an iron pin on the West boundary of said Honor Park Subdivision No. 3;
Thence along said West boundary
North 00°40'02" East 211.56 feet to the POINT OF BEGINNING.

PARCEL H

A parcel of land being a portion of Lot 26 and Lot 25 of Honor Park Subdivision No. 3 as on file in Book 78 of Plats at Page 8191 in the Office of the Ada County Recorder, Boise, Idaho, lying in the Northwest quarter of Section 18, Township 3 North, Range 1 East, Boise Meridian, City of Meridian, Ada County, Idaho as shown on Record of Survey No. 7377 recorded as Instrument No. 106072793 in the office of the Ada County Recorder, Boise, Idaho and more particularly described as follows.

COMMENCING at an iron pin marking the Northwest corner of Lot 26, Block 2 of said Honor Park Subdivision No. 3; Thence along the North boundary line of said Lots 25 and 26, North 89°20'24" East 101.04 feet to an iron pin; Thence continuing North 00°39'36" West 20.00 feet to an iron pin, Thence continuing North 89°20'24" East 30.00 feet to an iron pin; Thence continuing

ALTA Commitment
Schedule C

(A0657052.PFD/A0657052/M3)

South 00°39'36" East 20.00 feet to an iron pin; Thence continuing North 89°20'24" East 98.04 feet to an iron pin marking the POINT OF BEGINNING; thence continuing North 89°20'24" East 282.92 feet to an iron pin; Thence continuing North 00°39'36" West 20.00 feet to an iron pin; Thence continuing North 89°20'24" East 15.00 to an iron pin marking the Northeast corner of said Lot 25; Thence South 00°39'36" East 50.00 feet to an iron pin; Thence South 89°20'24" West 50.33 feet to an iron pin; Thence South 00°24'38" West 190.23 feet to an iron pin on the South boundary of said Lot 25, Thence along the South boundary of said Lot 25, South 89°31'22" West 246.12 feet to an iron pin marking the Northwest corner of Lot 21, Block 2 of said Honor Park Subdivision; Thence continuing South 89°31'22" West 3.00 feet to an iron pin; Thence North 00°40'03" East 219.46 feet to an iron pin marking the POINT OF BEGINNING.

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing NOTICE OF ENTRY OF ORDER
AUTHORIZING RELEASE OF EXCESS COLLATRERAL FOR FRANKLIN STRATFORD
LOAN AND PAYMENT OF THE SALE PROCEEDS OF 2.51 ACRES PARCEL TO PETRA,
INC. was made this 28th day of June, 2006, by depositing a copy of the same in the United States
mail in Las Vegas, Nevada, postage-prepaid, addressed to the following:

DEBTOR AND COUNSEL

ATTORNEY AND COUNSEL
9 ANNETTE W. JARVIS
RA Y QUINNEY & NEBEKER P.C.
10 36 SOUTH STATE STREET, SUITE 1400
P.O. BOX 45385
11 SALT LAKE CITY, UTAH 84145-0385

12 LENARD E. SCHWARTZER
JEANETTE E. MCPHERSON
13 SCHWARTZER & MCPHERSON LAW FIRM
2850 SOUTH JONES BOULEVARD, SUITE 1
14 LAS VEGAS, NEVADA 89146-5308

15 USA COMMERCIAL MORTGAGE
USA CAPITAL REALTY ADVISORS, LLC
16 USA CAPITAL DIVERSIFIED TRUST DEED FUND,
LLC USA CAPITAL FIRST TRUST DEED FUND, LLC
17 USA SECURITIES, LLC
THOMAS J. ALLISON
18 4484 SOUTH PECOS ROAD
LAS VEGAS, NV 89121

THE UNITED STATES TRUSTEE

20
21 OFFICE OF THE U.S. TRUSTEE
22 600 LAS VEGAS BLD., SOUTH,
STE. 4300
LAS VEGAS, NV 89101

USA CAPITAL REALTY ADVISORS, LLC - UNSECURED CREDITORS

KUMMER, KAEMPFER, BONNER & RENSHAW
3800 HOWARD HUGHES PKWY., 7th FLOOR
LAS VEGAS, NV 89109

26 INTERSHOW
THE GITHLER CENTER
1258 NORTH PALM AVE.
27 SARASOTA, FL 34236

1 **USA SECURITIES, LLC - UNSECURED CREDITORS**

2 JAMES HULL
3 C/O SIGNATURE FINANCIAL
4 2601 AIRPORT DRIVE
5 TORRANCE, CA 90505

6 GEORGE GORMAN
7 C/O FINANCIAL WEST GROUP
8 4510 E. THOUSAND OAKS BLD.
9 THOUSAND OAKS, CA 91362

10 R. HAGMAIER
11 C/O FINANCIAL WEST GROUP
12 4510 E. THOUSAND OAKS BLD.
13 THOUSAND OAKS, CA 91362

14 TIM RICH
15 C/O FINANCIAL WEST GROUP
16 4510 E. THOUSAND OAKS BLD.
17 THOUSAND OAKS, CA 91362

18 **UNSECURED CREDITORS COMMITTEE FOR USA COMMERCIAL
19 MORTGAGE COMPANY**

20 Bunch Bell
21 1909 Red Robin Court
22 Las Vegas, NV 89134

23 Advanced Information Systems
24 c/o Michael T. Yoder
25 4270 Cameron Street, Suite #1
26 Las Vegas, NV 89103

27 C/O Donald R. Walker
28 9209 Eagle Hills Drive
Las Vegas, NV 89134-6109

29 Russell AD Development Group, LLC
30 P. O. Box 28216
31 Scottsdale, AZ 85255

32 Robert A. Russell
33 8585 East Hartford Drive
34 Suite 500
35 Scottsdale, AZ 85255

36 Annee Nounna
37 8057 Lands End Court
38 Las Vegas, NV 89117-7635

39 Robert L. Hagmaier
40 15254 Candlewood Court
41 Lake Oswego, OR 97035

42

1 [PROPOSED] COUNSEL FOR THE FOLLOWING TWO INVESTOR COMMITTEES: Equity
2 Security Holders of USA Capital First Trust Deed Fund, LLC and Equity Security Holders of
2 USA Capital Diversified Trust Deed Fund;

3 Jeffrey H. Davidson
4 Frank A. Merola
4 Eve H. Karaski
5 Stutman, Treister & Glatt, P.C.
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6 Los Angeles, CA 90067

6 James Patrick Shea
7 Candace C. Carlyon
8 Shea & Carlyon, LTD.
8 233 S. Fourth Street, 2nd Floor
9 Las Vegas, NV 89101

10 **COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED**
11 **FUND, LLC.**

12 Robert E. Taylor
13 1535 Flynn Road
13 Camarillo, CA 93012

14 John Warner Jr., IRA
14 C/O First Savings Bank
15 2605 East Flamingo Road
15 Las Vegas, NV 89121

16 C/O Chuck Heinrichs
17 198 E. Pajaro
17 Newbury Park, CA 91320

18 John H. Warner, Jr.
19 2048 North Chetro Trail
19 St. George, UT 84770

20 Mary E. and Matthew J. Moro, JTWROS
21 1009 8th Street
21 Manhattan Beach, CA 90266

22 Richard G. Woudstra Revocable Trust
23 Richard G. Woudstra, TTWW
23 P. O. Box 530025
24 Henderson, NV 89053

25 Wen Baldwin Separate Property Trust
25 365 Dooley Drive
26 Henderson, NV 89015

27 Jerry T. McKinsey
27 3115 South El Camino Rd.
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1 Richard Horowitz
2 5 Fir Drive
3 Kings point, NY 11024

4 **COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL DIVERSIFIED**
TRUST DEED FUND, LLC.

5 Robert G. Northen
6 1112 Northen Circle
7 Las Vegas, NV 89145

8 Katz 2000 Separate Property Trust
9 Sara M. Katz, Managing Trustee
10 4250 Executive Square, #670
11 San Diego, CA 92037

12 Thomas C. Lawyer Family Trust
13 45 Vientiane Canyon Drive
14 Las Vegas, NV 89113

15 Mardan Ruta
16 4043 Chalons Court
17 Las Vegas, NV 89121

18 Charles O. Nicholls and Flora A. Nicol
19 2561 Seascapes Drive
20 Las Vegas, NV 89128

21 Robert H. Mansfield
22 3611 Victory Avenue
23 Las Vegas, NV 89121

24 **COMMITTEE OF HOLDERS OF EXECUTORY CONTRACT RIGHTS THROUGH**
USA COMMERCIAL MORTGAGE COMPANY

25 Fortuity Enterprises, Inc.
26 2960 W. Sahara Ave., Suite 200
27 Las Vegas, NV 89102

28 Helms Homes, LLC
C/O Terry Helms
809 Upland BLD.,
Las Vegas, NV 89107

29 William J. Bolland
30 Fortuity Enterprises, Inc.
31 P. O. Box 27555
32 Las Vegas, NV 89126

33 Terry Helms Living Trust
34 809 Upland BLD.
35 Las Vegas, NV 89107

1 Dennis Flier, Inc. Defined Benefit Trust
 2 20155 Porto Vita Way #1803
 2 Alectura, FL 33180

3 Arthur Polacheck and Glorianne Polacheck
 4 2056 Wooklake Circle
 4 Deerfield Beach, FL 33442

5 James W. McCollum and Pamela P. McCollum
 6 1011 F. Avenue
 6 Coronado, CA 92118

7 Homfeld II, LLC
 7 777 South Federal Highway
 8 Suite -409
 8 Pompano Beach, FL 33062

9 C/O Edward W. Homfeld
 10 858 Bishop Road
 10 Grosse Pointe Park, MI 48230

11 Nevada Mortgage Lending Division
 12 Attn: Susan Eckhardt
 12 3075 East Flamingo #100
 13 Las Vegas, NV 89121

14 U. S. Securities and Exchange Commission
 15 Attn: Sandra W. Lavigna
 15 5670 Wilshire Blvd., 11th Floor
 16 Los Angeles, CA 90036-3648

17 Pension Benefit Guaranty Corporation
 17 Office of the Chief Counsel
 17 1200 K. Street, NW
 18 Washington, D.C. 20005-4026

19 Department of Employment Training
 20 Employment Sec. Div., Contributions
 20 500 East Third Street
 21 Carson City, NV 89713-0030

22 DMV and Public Safety Records Section
 22 555 Wright Way
 22 Carson City, NV 89711-0250

23 Employers Insurance Co. Of NV
 24 Attn: Bankruptcy Desk
 24 9790 Gateway Drive
 25 Reno, NV 89521-5906

26 NV Dept. of Taxation
 27 Bankruptcy Division
 27 555 East Washington, #1300
 28 Las Vegas, NV 89101

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1 Internal Revenue Service
 2 Attn: Bankruptcy dept.
 2 Stop 5028 110 City Parkway
 2 Las Vegas, NV 89106
 3
 4 Secretary of State
 4 State of Nevada
 4 202 North Carson Street
 5 Carson City, NV 89701
 6 NV Department of Taxation
 6 Revenue Division
 7 Capitol Complex
 7 Carson City, NV 89701-0003
 8
 9 Office of Labor Commissioner
 9 555 East Washington Ave., Suite 4100
 9 Las Vegas, NV 89101
 10 U. S. Attorney
 11 District of Nevada
 11 323 Las Vegas Blvd., So., #5000
 12 Las Vegas, NV 89101
 13 United States Dept. of Justice
 14 Tax-Division-Western Region
 14 P. O. Box 683-Ben Franklin Station
 15 Washington, D.C. 20044
 16 District Counsel
 16 Internal Revenue Service
 16 110 City Parkway
 17 Las Vegas, NV 89106
 18 Internal Revenue Service
 18 Ogden, UT 84201
 19
 20 FHA/HUD
 20 District Office 333 North Rancho Drive., #700
 20 Las Vegas, NV 89106-3797
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 22 Dept. of Veterans Affairs
 22 Loan Service and Claims
 22 3225 North Central
 23 Phoenix, AZ 85012
 24 Clark County Treasurer
 24 C/O Bankruptcy Clerk
 25 P. O. Box 551220
 25 Las Vegas, NV 89155-1220
 26
 27 Clark County Assessor
 27 C/O Bankruptcy Clerk
 27 P. O. Box 551401
 28 Las Vegas, NV 89155-1401

1 **NOTICES OF APPEARANCE/REQUESTS FOR NOTICES**

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